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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/023,899	12/21/2001	Per-Anders K. Lof	217705US-8	5313
22850 7590 08/07/2007 OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			EXAMINER APPLE, KIRSTEN SACHWITZ	
			ART UNIT 3693	PAPER NUMBER
			NOTIFICATION DATE 08/07/2007	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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jgardner@oblon.com

<b>Office Action Summary</b>	Application No. 10/023,899	Applicant(s) LOF ET AL.	
	Examiner Kirsten S. Apple	Art Unit 3693	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 14 May 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                 | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>no IDS</u> . | 6) <input type="checkbox"/> Other: _____  |

## **Detailed Action**

This action is in response to the communication filed on 5/14/07.

### ***Restriction***

Examiner acknowledges the applicant election of Group A (Claims 1-3) in response to the election/restriction requirement, with traverse.

### ***Priority***

Acknowledgment is made of applicant's claim for prior priority date of U.S.

Provisional Patent Application 60/298,142 filed on 06/15/2001.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1-3 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In particular it is indefinite and the examiner did not understand in claim 1 "sensing":

It is unclear to the examiner and one of ordinary skill in the art what is claimed by this description. For the purposes of this review the examiner will interpret the claim to be:

"Collecting"

### ***Claim Rejections - 35 USC § 103***

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lerner (U.S. Patent Publication 2002/0120555) in view of Pionzio (U.S. Patent Publication 2002/0029097)

**Re claim 1:** Lerner discloses:

*A method comprising steps of:*

*Developing a trading position based on an uncertainty in a forecast (see Lerner, Figure 4C, clearly indicates "entering a market order" or trading position)*

*Committing to deliver at least a portion of a unit of power from renewable power generation facility at a predetermined time (see Lerner, see paragraph 0006, line 5-6 "paper traders take ownership of the physical product" therefore the seller must commit to deliver the commodity. Renewable energy is a commodity see paragraph 0029)*

*Although Lerner does not have collecting and forecasting energy, Pionzio claims "collecting and forecasting energy"*

*Collecting environmental factors that affect an amount of electrical power generated by the renewable power generation facility (see Pionzio, Figure 3)*

*Developing an environmental forecast from environmental factors collected (see Pionzio, Figure 6, Item 630 & 610 also see paragraph 009 specifically "predicative analysis")*

*Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Lerner trading system by adapting forecasting energy in Pionzio. Lerner already teaches "market data database" Figure 4, item 263 and includes "weather events" as one of the items in the market data database.*

*It is clear that one would be motivated to have accurate market data.*

**Re claim 2:** Lerner discloses:

*Calculating a financial risk associated with a commitment to deliver the unit of power at the predetermined time (Lerner, Abstract "application tailored to members' specific risk-management)*

*Contrasting a cost associated with a risk of failure to deliver the unit of power at the predetermined time with a cost to mitigate risk of failure (Lerner, Paragraph 0114, specifically line 13 "amend specific terms to see its affect on the total position and calculate the value")*

*Adjusting trading position based on uncertainty in an environmental reforecast make with an update in environmental factors (Lerner, paragraph 0115-0118, adjusting the trading position in Lerner based on uncertainty (specifically see paragraph 0118, line 6-10) not only is executable in the "autotrader wizard" and "arbitrage watchdog" it can be done automatically)*

**Re claim 3:** Lerner discloses:

*Trading position includes trading an option to offset an uncertainty in environment reforecast (see Lerner, Figure 4C, clearly indicates "entering a market order" or trading position these trading position are "options" contract (see paragraph 006)*

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***Examiners Note***

The examiner would like to note that the broad nature of these claims reads on many prior art reference not just the ones cited. In particular traders and more importantly corporations make forecasts and reforecast of there mission critical commodities (either what they buy such as steel with GM or what they sell such as wheat with farmers) and based on these buy and sell options as appropriate. If the applicant has a unique algorithm or calculation specific to their commodity of wind powered energy the examiner recommends this is brought into the claims.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Lange, U.S. Patent No 6,321,212, discloses options trading system using market data including weather events.

***Contact Information***

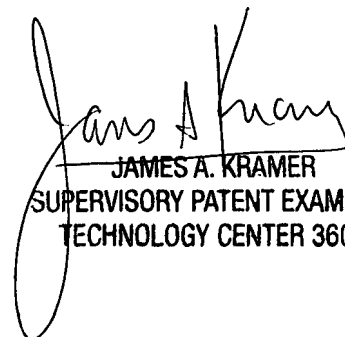
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kirsten S. Apple whose telephone number is 571.272.5588. The examiner can normally be reached on Monday - Friday 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Kramer can be reached on 571-272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-272-6126.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ksa

 7/30/07  
JAMES A. KRAMER  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600